# SHER TREMONTE LLP

November 20, 2020

**BY ECF**

The Honorable Paul A. Engelmayer
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, NY 10007

   **Re:**  *United States v. Ari Teman*
      **Case No. 19-cr-696 (PAE)**

Dear Judge Engelmayer:

  We write on behalf of our client, Ari Teman, in response to the Court's order dated November 19, 2020 concerning the scheduling of sentencing.  In light of the ongoing public health crisis and particular considerations regarding the welfare of Mr. Teman, we respectfully request that the Court maintain the December 1, 2020 sentencing date but order that the sentencing be conducted remotely pursuant to the CARES Act.

  As Your Honor knows, Mr. Teman was convicted in January of this year and has been on home detention since that time.  Since Mr. Teman's conviction, the world has experienced a once-in-a-century global pandemic that has made all but essential travel inadvisable from a public health standpoint.  *See* Mike Stobbe & Heather Hollingsworth, *CDC pleads with Americans to avoid Thanksgiving travel*, Associated Press, Nov. 20, 2020, https://apnews.com/article/cdc-guidelines-thanksgiving-holidays-597a53e6cd8a7565c8f1433e6a3e2efd.  As discussed in Mr. Teman's sentencing submission, Mr. Teman is especially vulnerable to COVID-19 due to longstanding respiratory issues.  *See generally* Ltr. of Zvi M. Osterweil, M.D., Dkt. # 149, Ex. 1.  Nevertheless, while the Court in its November 19, 2020 order invited a request to adjourn sentencing, Mr. Teman's countervailing mental health concerns compel us to request that sentencing proceed on the current schedule.  We plan to provide the Court with additional material regarding Mr. Teman's mental health early next week, but it suffices to say now that the ongoing pendency of the case has significantly exacerbated ongoing struggles to such a degree that we believe it is important for Mr. Teman not to delay resolution of this matter further.  We have advised Mr. Teman of his option to adjourn sentencing and appear in person, and he consents to proceeding on the current schedule remotely.

  We have discussed the foregoing with Assistant U.S. Attorney Kedar Bhatia, and he has advised that, in light of these issues, the government is considering its position but cannot give its consent at this time.  However, in light of the Court's request that we

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respond promptly, we wanted to file this request even as the government considers its position.  We note that under the CARES Act, the Court may order remote sentencing even in the absence of the government's consent, based on a finding that sentencing should not be further delayed in the interest of justice.  *See* CARES Act § 15002(b)(2)(A).  Accordingly, we respectfully request that the Court maintain the December 1, 2020 sentencing date and order that sentencing be conducted remotely.[1]

We appreciate the Court's consideration.

Respectfully submitted,

/s/
Justine Harris
Noam Biale

cc:      All Counsel of Record

The Court appreciates the defense's prompt response.  The Court will determine after receiving the Government's response, and the defense's submission regarding Mr. Teman's mental health, whether (1) to hold the sentencing remotely on December 1; (2) to adjourn the sentencing; or (3) to hold the sentencing in person on December 1, as is currently scheduled.  The Court directs counsel to file these submissions by noon on Tuesday, November 24, 2020.   The Court asks the defense, in its submission, to state whether—if the Court were to decide against a remote sentencing—Mr. Teman would prefer (and be able, consistent with current travel restrictions) to have an in-person sentencing on December 1 or to adjourn the sentencing.  The Court further authorizes each side to submit a brief reply, due to be filed on the docket of the case by 10:00 a.m. on Wednesday, November 25, 2020.

SO ORDERED.

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PAUL A. ENGELMAYER
United States District Judge

November 20, 2020

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[1]      If the Court wishes to have the lawyers appear in person, Ms. Harris is available to do so.